

dam or reservoir project, if an easement exists on the acreage affected for the containment or release of the water;

(6) Failure or breakdown of irrigation equipment or facilities; or

(7) Except for tree crops and perennials, inadequate irrigation resources at the beginning of the crop year;

(8) A loss of inventory (or yield as applicable) of aquiculture (including ornamental fish), floriculture or ornamental nursery stemming from drought or any failure to provide water, soil, or growing media to such crop for any reason;

(9) Any failure to provide a controlled environment or exercise good nursery practices where such controlled environment or practices are a condition of eligibility under this part.

**§ 1437.10 Notice of loss and application for payment.**

(a) At least one producer having a share in the unit must provide a notice of loss to CCC in the administrative FSA office for the unit, within:

(1) For prevented planting claims, 15 calendar days after the final planting date,

(2) For low yield claims and allowable value loss, the earlier of:

(i) 15 calendar days after the damaging weather or adverse natural occurrence, or date loss of the crop or commodity becomes apparent for low yield claims; and

(ii) 15 calendar days after the normal harvest date.

(b) For each crop for which a notice of loss is filed, producers must provide the following information:

(1) Crop by type or variety, as applicable;

(2) The cause of the crop damage;

(3) Date the loss occurred, as applicable;

(4) Date the damage or loss became apparent;

(5) The existence of a guaranteed payment through a contract or agreement for planted acreage as opposed to delivery of production, if one exists;

(6) Type of crop loss occurred, e.g. prevented planting or low yield;

(7) Practices employed to grow the crop, e.g. irrigated or non-irrigated;

(8) For prevented planting:

(i) Total acreage intended to be planted to the crop in the administrative county;

(ii) Total acreage planted by the producer to the crop in the administrative county;

(iii) Whether a purchase, delivery, or arrangement for purchase or delivery was made for seed, chemicals, fertilizer, etc; and

(iv) What and when land preparation measures, e.g. cultivation, etc. were completed and indicate what has been done or will be done with the acreage, e.g. abandoned, replanted, etc.

(9) For low yield:

(i) Total acreage planted by the producer to the crop in the administrative county;

(ii) Total acreage of the crop in the administrative county affected;

(iii) What and when land preparation measures and practices, e.g. cultivation, planting, irrigated, etc. were completed before and after the loss; and

(iv) What will be done with the affected crop acreage, e.g. harvested, destroyed and replanted to a different crop, abandoned, etc.

(10) Any such other information requested by CCC to establish the loss.

(c) A notice of loss provided beyond the time specified in paragraph (a) of this section may be considered timely filed if, at the discretion of CCC, provided at such time to permit an authorized CCC representative the opportunity to:

(1) Verify the information on the notice of loss by inspection of the specific acreage or crop involved; and

(2) Determine, based on information obtained by inspection of the specific acreage or crop involved, that an eligible cause of loss, as opposed to other circumstance, caused the claimed damage or loss.

(d) Crop acreage that will not be harvested, i.e. acreage that is to be abandoned or destroyed or in the case of forage acreage intended to be mechanically harvested but grazed, must be left intact and producers must request, in the administrative FSA office for the acreage, a crop appraisal and release of crop acreage by a FCIC- or CCC-approved loss adjustor:

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(1) Prior to destruction or abandonment of the crop acreage; or

(2) No later than the normal harvest date, as determined by CCC.

(e) Producers must apply for payments prior to the earlier of the:

(1) Date an application for coverage is filed for the crop for the subsequent crop year; or

(2) Application closing date for the crop for the subsequent crop year.

### § 1437.11 Average market price and payment factors.

(a) An average market price will be used to calculate assistance under this part and will be:

(1) A dollar value per the applicable unit of measure of the eligible crop;

(2) Determined on a harvested basis without the inclusion of transportation, storage, processing, marketing, or other post-harvest expenses, as determined by CCC;

(3) Comparable with established FCIC prices; and

(4) Determined, as practicable, for each intended use of a crop within a State for a crop year.

(b) For these purposes, where needed, an Animal-unit-days (AUD) value will be based on the national average price of corn and the daily requirement of 13.6 megacalories of net energy for maintenance of 1 animal unit.

(c) Payment factors will be used to calculate assistance for crops produced with significant and variable harvesting expenses that are not incurred because the crop acreage was prevented planted or planted but not harvested, as determined by CCC.

(d) An adjusted market price will be calculated based on the provisions in this section and others as may apply. A final payment price will be determined by multiplying, as appropriate, the average market price by the applicable payment factor (i.e. harvested, unharvested, or prevented planting) by 55 percent or, by multiplying the applicable AUD (as adjusted, if adjusted) by 55 percent.

### § 1437.12 Crop definition.

(a) For the purpose of providing benefits under this part, CCC will, at its discretion, define crops as specified in this section.

(b) CCC may separate or combine types and varieties as a crop when specific credible information as determined by CCC is provided showing the crop of a specific type or variety has a significantly different or similar value when compared to other types or varieties, as determined by CCC.

(c) CCC may recognize two or more different crops planted on the same acreage intended for harvest during the same crop year as two or more separate crops. The crop acreage may include a crop intended for harvest before planting of a succeeding crop or a succeeding crop interseeded with the preceding crop prior to intended harvest of the preceding crop. The acreage must be in an area where the practice is recognized as a good farming practice, as determined by CCC, and all crops are recognized by CCC as able to achieve the expected yield, as determined by CCC.

(d) CCC may consider crop acreage that is harvested more than once during the same crop year from the same plant as a single crop. The acreage must be in an area where the practice is recognized as a good farming practice, as determined by CCC.

(e) CCC may consider each planting period of multiple planted acreage as a separate crop. The acreage must be in an area where the practice is recognized as a good farming practice, as determined by CCC.

(f) CCC may define forage as separate crops according to the intended method of harvest, either mechanical harvest or grazed.

(g) Forage acreage intended to be grazed may be further defined as warm and cool season forage crops.

(h) Forage acreage intended to be mechanically harvested may be defined as a separate crop from grazed forage and may be separated based upon the commodity used as forage, to the extent such separation is allowed under paragraph (b) of this section.

(i) Crop acreage intended for the production of seed may be considered a separate crop from other intended uses, as determined by CCC, if all the following criteria apply:

(1) The specific crop acreage is seeded, or intended to be seeded, with an